

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FISH AND GAME**

**Call to Order:** By **CHAIRMAN KEN MESAROS**, on February 9, 1999 at 3:20 P.M., in Room 402 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Ken Mesaros, Chairman (R)  
Sen. Mike Taylor, Vice Chairman (R)  
Sen. Al Bishop (R)  
Sen. William Crismore (R)  
Sen. Steve Doherty (D)  
Sen. Pete Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Eve Franklin (D)  
Sen. Bea McCarthy (D)  
Sen. Chuck Swysgood (R)  
Sen. Jack Wells (R)

**Members Excused:** Sen. Tom A. Beck (R)

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Adrienne Pillatzke, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 324, 2/9/1999; SB 381,  
2/9/1999  
Executive Action: None

**Chairman Ken Mesaros** turned the hearing over to **Vice Chairman Mike Taylor**.

**Sponsor:** **SENATOR KEN MESAROS, SD 25, Cascade** sponsored SB 324 since **SENATOR KEN MILLER, SD 11, Laurel** could not be present.

**Proponents:**    **REPRESENTATIVE BRAD MOLNAR, HD 22, Laurel**  
                         **Dustin Doane, MT Wildlife Federation**

**Opponents:**     **John Munding, MT Stockgrowers' Assoc., MT Assoc.**  
                         **of State Grazing Districts and MT Public**  
                         **Lands Council**  
                         **Jean Johnson, MT Outfitters and Guides**  
                         **Pat Graham, Fish Wildlife and Parks**  
                         **Kelly Flynn, Rancher from Townsend**  
                         **Amy Sullivan, MT Tourism Coalition**  
                         **Mary Ellen Schnur, Rancher from Townsend**

**Opening Statement by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 3:22}***

**SENATOR KEN MESAROS, SD 25, Cascade,** stated the sponsor of SB 324 was ill and unable to be present. SB 324 would forward legislation to submit to the electors the requirement that FWP reduce by 10% each year for 4 years the numbers of nonresident big game licenses that are authorized for sale.

**Proponents' Testimony:**

**REPRESENTATIVE BRAD MOLNAR, HD 22, Laurel,** discussed and submitted a license sales worksheet, **EXHIBIT(fis32a01)**. He said elk numbers went up and elk hunters' numbers went down by about the same percentage. He commented on his discussion with Montana Rod and Gun Clubs. Members told him the reason for not hunting any more was because the aggravation is greater than fun.

He discussed how Montana is divided between the lease in BLM's Operations Plan, B11 which is the deer combination that is reserved for land owner sponsored outfitters and public land blocked by leasing, Private Lands Public Wildlife Plan land, where B7 became a B11, and block management. In 1996 there were 30,000 Montanans who didn't buy deer tags and 11,000 who didn't buy elk tags.

He talked about the fiscal note and the impact SB 324 will have on the economy. He stated the economic argument is that nonresidents are the ones getting reduced. The biological argument is that Montana does not have the deer or antelope and we are selling licenses under an extreme suspicious set up. He talked to outfitters who said it is a good idea to reduce nonresident license because they have nothing to sell and hunters are not coming back. He stated SB 324 will benefit Montana.

**Dustin Doane, MT Wildlife Federation,** stated the federation supports SB 324. He commented that historically residents' access to private property has decreased, inversely proportionately to the number of nonresident license issued per year. Currently residents only have the ability to access private lands by paying a large access fee. He stated SB 324 reduces the number of nonresident big game licenses authorized for sale. Outfitters profit from the sale of our public resource such as deer, antelope, elk and moose. The Wildlife Federation supports a decrease in nonresident tags over resident tags.

**{Tape : 1; Side : A; Approx. Time Counter : 3:34}**

**Opponents' Testimony:**

**John Mundinger, MT Stockgrowers' Assoc., MT Assoc. of State Grazing Districts and MT Public Lands Council,** stated he opposes SB 324. He said the issue of hunting, access to hunting, and of a wildlife habitat have been contentious issues in Montana for the last 15-20 years. Land owners no longer feel they are legitimate partners in the business of wildlife management in this state. Wildlife resource is a public resource that lies in the public trust. Programs like block management and conservation easements are funded by nonresident licenses.

**Jean Johnson, MT Outfitters and Guides Association,** stated SB 324 is anti-nonresident, anti-outfitter, anti-business, anti-landowner, anti-sportsmen.

Commercialization of wildlife will never go away. One reason is that sportsmen and all Montanans benefit. Conservation easements, Elk habitat, Rocky Mountain Elk Foundation got its early start from nonresidents guided by outfitters who gave the trip as a donation. He stated everybody benefits from an elk habitat.

She stated I-136 was step one in a three-step process. She said I-136 would roll back the numbers of outfitters. Step two was a move to roll back the number of nonresidents because it diminishes the market opportunity for landowners. She said SB 324 is step two. Step three is yet to come although there is a legislative draft request. Step three would change the way agricultural lands that generate recreation dollars were taxed. That is a way to get the landowner to open his gates and allow free public hunting because after all they have to get the wildlife harvested.

She talked about HB 520 in the 1997 legislature. She stated the real issue is habitat and wildlife. Wildlife belongs to all

Montanans and a lot of the habitat belongs to landowners. When resident sportsmen talk about their wildlife, one thing they don't bring up is the habitat component and if it wasn't there, there wouldn't be the wildlife population. Landowners have been raising wildlife for years. She suggested a landowner tax credit for growing grass and alfalfa and providing habitat and security.

**Pat Graham, FWP**, entered written testimony, **EXHIBIT(fis32a02)** and entered and informational worksheet, **EXHIBIT(fis32a03)**.

**Kelly Flynn, Rancher**, submitted written testimony, **EXHIBIT(fis32a04)**.

**Amy Sullivan, MT Tourism Coalition**, stated SB 324 is anti-rural tourism. She discussed how the bill affects small business and of her knowledge of land being saved due to nonresident hunters. She urges the opposition of SB 324.

**Mary Ellen Schnur, Rancher**, stated she views SB 324 not as an outfitting issue but as a Montana issue. She asked if we can legitimately establish that nonresident fishing and hunting in MT is causing our wildlife harm. If we can't, then how can we deprive nonresidents of a legitimate use of their federal lands within Montana without imposing an equal deprivation on Montana residents. She stated if we treat nonresidents unfairly then we can expect light treatment when we are nonresident visitors to other states.

#### Questions from Committee Members and Responses:

**SENATOR CRISMORE** asked if there was no opportunity to have out of state hunters, would Kelly Flynn be willing to negotiate a lease to a person from Montana to lease all four ranches for a good price. **Kelly Flynn** replied that they want to stay on the land and they would do what they had to survive.

**SENATOR WELLS** asked what proportion of their income derives from the outfitted ranch compared to the rest of his operation. **Kelly Flynn** responded that 1/4 of the ranch's income comes from the recreation business. The rest is in cattle, hay, grain and sheep. He stated it is not the total of the gross portion that is the concern, it is the net, because with the hay, grain and livestock in every division we were unable to make a profit. Even though the portion of the income is a lot less, it comes from the recreation end. He also said it is not a large number of people but it influences others and is able to keep the ranch going. **SENATOR WELLS** asked if they could make a decent profit in their other crops, would they carry an outfitting business or would they devote more time to the farming. **Mr. Flynn** stated if

they would make a profit then they probably would not take as many.

**SENATOR DOHERTY** asked Pat Graham if the bill was amended for any lost revenue from the 10% reduction to the number of licenses sold by increasing either the combination of nonresident and resident and end the combination resident licenses and FWP still has the same amount of revenue. What would the department's position be on the bill. **Pat Graham** replied the department still has questions about what it does to the price licenses. He stated that the mentioned are is going to be difficult to administer. He said there is a public policy question that the legislature has to address in terms of how many nonresident hunters they will allow. Three licenses have statutory limits.

**SENATOR DOHERTY** asked if they were to make up for potential loss revenue with a combination increase in nonresident and residents licenses. **REPRESENTATIVE MOLNAR** stated that a resident elk tag is \$15. He would pay \$30, but he would have to have good hunting. Block management funds use to come from resident hunters and now from the increase of price of deer and elk. They are earmarked funds. Hunting in Montana right now is abdicable.

**SENATOR FRANKLIN** asked where is the science that shows hunting in Montana is abdicable. **REPRESENTATIVE MOLNAR** stated mule deer, white tail and antelope numbers are down. The average age of mountain lions has dropped by 2-3 years because there are no deer to feed the young cubs.

**SENATOR FRANKLIN** asked what is the current science on the state of hunting this year in Montana. **Mr. Graham** said the elk populations were in good condition in most of the state. The deer population varies significantly across the state. Mule deer has declined in southwest and parts of central Montana. Weather conditions were a big factor with two very harsh winters and a drought which lost three consecutive fawn crops in most of the areas. As a result the commission has significantly cut back on the issuing of licenses for those species.

**SENATOR DOHERTY** asked if there is any correlation between the increased value of the hunting resource in Montana, the number of out-of-state licenses and the increase in blocked access to Montana resident hunters. **Mr. Graham** replied the value of agriculture economy has declined to the point to whatever the value of the wildlife has, is going to make more of a significant impact. The department sees roughly the same amount of applicants for these licenses year after year. The turn over in lands going on in this state is substantial.

**SENATOR EKEGREN** stated the tourism factor is important to this equation. We will show our hostility by reducing nonresident over a period of four years. It seemed counter productive to him.

**SENATOR WELLS** stated the House passed the "Guaranteed License Set Up" in 1995. He asked how much land has been leased by outfitters since that bill was passed in 1995. **Jean Johnson** stated Allen Charles compiled a number from records that were not complete and came up with 400,000 acres. She said she would provide the numbers before the committee took executive action.

**Closing by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 4:19}***

**SENATOR KEN MESAROS** stated he would give Senator Miller the chance to answer any questions for the committee before executive action.

**SENATOR KEN MESAROS** resumed chair of the committee.

**HEARING ON SB 381**

***{Tape : 1; Side : A; Approx. Time Counter : 4:21}***

**Sponsor:** **SENATOR DUANE GRIMES, SD 20, CLANCY**

**Proponents:** **Pat Graham, Fish Wildlife and Parks**  
**Jim Posewitz, Orion The Hunter's Institute**

**Opponents:** **Darrell Harris, Citizen**

**Opening Statement by Sponsor:**

**SENATOR DUANE GRIMES, SD 20, CLANCY** said SB 381 stated if people want to poach go to another state. He stated SB 381 was requested from Fish Wildlife and Parks based on the recommendation of the Hunter Behavior Advisory Council. The bill will implement several of the council's recommendations. He said SB 381 directs FWP to develop a voluntary hunter, adult hunter education course and a remedial hunter education course for major wildlife offenders. Development and administration courses would be paid for through the restitution imposed by the courts on wildlife offenders. The bill also increases the penalties for serious chronic offenders for second and third offenses committed within a 10-year period to provide deterrence for repeated offenders. The bill allows for permanent lifetime prohibition.

He entered and discussed the amendments to the committee,  
**EXHIBIT(fis32a05)**.

**Proponents' Testimony:**

**Pat Graham, FWP**, entered written testimony, **EXHIBIT(fis32a06)**. He also entered the Hunter Behavior Advisory Council booklet, **EXHIBIT(fis32a07)**.

**Jim Posewitz, Orion The Hunter's Institute and member of Hunter Behavior Advisory Council**, stated in 1909 the State of Wisconsin harvested 3,985 deer with over 44 shooting accidents that resulted in fatalities which equates to 1 fatality for every 90 deer taken. The council focused on the education agenda. Two main recommendations addressed in SB 381 are the creation of remedial hunter education for game violators which is strongly supported and the development of an advance or adult hunter education opportunities which are believed to be necessary. In 1992 Montana hosted the first governors' symposium in the North American heritage. Two things emerged from the symposium that relate to this bill. One was to study and teach the heritage of hunting to all our citizens and to address the issue of hunter ethics. He also entered a letter from Mary Ellen Schnur, **EXHIBIT(fis32a08)**.

**Opponents' Testimony:**

**Darrell Harris, Citizen**, said the bill states the penalties apply to fishing and game. He entered **EXHIBIT(fis32a09)**. He discussed an incident with FWP over the limit of fish in possession and the fine he received. He said if there are going to be laws then they should be printed in the books.

**Questions from Committee Members and Responses:** None.

**Closing by Sponsor:**

**SENATOR DUANE GRIMES** stated he has seen poached game. He said if the committee would like to amend the bill to make the first penalty for out-of-state hunters a lifetime prohibition on hunting in Montana that would be great, but probably not Constitutional.

He believes the majority of hunters in Montana are very ethical and obey the law and, of course, it is good they understand the law. He asked the Fish and Game to look at the printed material they are printing. He feels in some ways the Fish and Game wardens sometimes can't go far enough.





**ADJOURNMENT**

Adjournment: 4:40 P.M.

---

SEN. KEN MESAROS, Chairman

---

ADRIENNE PILLATZKE, Secretary

KM/AP

**EXHIBIT (fis32aad)**